In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.26003-M of 2007 (O&M)

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Date of decision:24.8.2007

Amit Seth and others

.....Petitioners

v.

State of Punjab and others

.....Respondents

....

Present: Mr. Arun Bakshi, Advocate for the petitioners.

Mr. I.P.S. Sidhu, Senior Deputy Advocate General, Punjab for respondent No.1-State.

Mr. J.S. Bedi and Ms. Jaskaran Kaur alias Neera, respondents No.2 and 3 in person.

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S.S. Saron, J.

This petition under Section 482 Cr.P.C. has been filed for seeking quashing of FIR No.13 dated 24.1.2004 (Annexure-P.1) registered at Police Station Samrala, District Ludhiana for the offences under Sections 406 and 498-A IPC and all consequential proceedings in pursuance thereof in view of the compromise reached at in the matrimonial dispute between Amit Seth (petitioner No.1) and Jaskaran Kaur alias Neera (respondent No.3).

The marriage of Amit Seth (petitioner No.1) and Jaskaran Kaur alias Neera (respondent No.3) was solemnized on 5.8.2001 at Jalandhar City as per Hindu rites. Ashwani Seth (petitioner No.2) and Surinder Kumar Seth (petitioner No.3) are the brother and father respectively of Amit

Seth (petitioner No.1). Jatinder Singh Bedi (respondent No.2) is the father of Jaskaran Kaur alias Neera (respondent No.3). Smt. Vijay Seth, mother of petitioner No.1 whose name also figured in the FIR has since expired on 12.12.2005. Out of the marriage between petitioner No.1 and respondent No.3 a male child, namely, Shivam was born to the couple in June 2002. He is presently in the custody of petitioner No.1. There were temperamental differences between petitioner No.1 and respondent No.3 because of which they started living separate from 25.7.2003. On the complaint of Jatinder Singh Bedi (respondent No.2) the impugned FIR dated 24.1.2004 (Annexure-P.1) was registered for the offences under Sections 406 and 498-A IPC. Thereafter, on 4.3.2006 a compromise was reached at between the parties due to the intervention of respectable. Consequently, petitioner No.1 and respondent No.3 decided to live together along with their minor child Shivam. In consequence of the settlement Criminal Misc. No.51792-M of 2006 titled Amit Seth and others v. State of Punjab and another was filed before this Court seeking quashing of the FIR. A written compromise dated 4.3.2006 was annexed with the said petition and proceedings pending between the parties were withdrawn by the respective parties against the other. However, on 29.9.2006, it was stated by counsel for the petitioners Amit Seth and others that at the said stage there was no possibility of any compromise and the petitioners be permitted to withdraw the petition which was filed for quashing the FIR only on the basis of compromise. Accordingly, vide order dated 29.9.2006 (Annexure-P.2) the said petition was dismissed as withdrawn. The parties have now once again reached fresh settlement and petitioner No.1 and respondent

No.3 have decided to part ways amicably. On 17.1.2007, petitioner No.1 and respondent No.3 filed a joint petition under Section 13-B of the Hindu Marriage Act, 1955 seeking divorce by mutual consent. In was inter alia stated in the petition for divorce by mutual consent filed in the Court of learned Civil Judge (Senior Division), Samrala (exercising the powers of District Judge) that the entire dowry articles have been exchanged and respondent No.3 would neither claim any maintenance nor the custody of the son who shall remain with her father (petitioner No.1). It was also agreed that the parties shall withdraw the civil and criminal cases pending against each other. On 17.1.2007, petitioner No.1 and respondent No.3 made statements on oath in this regard.

Learned counsel for the petitioners submits that in view of the settlement reached between the parties the impugned FIR dated 24.1.2004 (Annexure-P.1) may be quashed. It is also submitted that the decree for divorce on the ground of mutual consent has also been passed. A reference is made to the affidavit dated 2.4.2007 (Annexure-P.6) deposed by Jatinder Singh Bedi (respondent No.2) complainant in which it is stated that as a result of the compromise his son-in-law Amit Seth (petitioner No.1) and his daughter Jaskaran Kaur (respondent No.3) had decided to part company by way of a mutual divorce petition filed on 17.1.2007. The entire dowry articles had already been exchanged. The deponent's daughter Jaskaran Kaur (respondent No.3) would neither claim any maintenance nor the custody of the child. No dispute remains pending between the parties. Besides, the deponent had no objection to the quashing of the impugned FIR.

Respondents No.2 and 3 are present in Court. They have filed photostat copies of identity cards in proof of their identity which are taken on record. They have submitted that the FIR registered against the petitioners may be quashed to which they have no objection. It is also stated that they have submitted regarding quashing of the FIR of their own free will and without any pressure.

Learned counsel for the State has submitted that the State in view of the judgment of the Supreme Court in B.S. Joshi and another v. State of Haryana and others, 2003 (2) RCR (Cr.) 888 (SC) would have no serious objection to the quashing of the FIR as the matrimonial dispute has been amicably settled.

After hearing learned counsel for the petitioners, the learned Senior Deputy Advocate General, Punjab for the State and respondents No.2 and 3 in person and perusing the record, it is appropriate to note that the matrimonial dispute between the parties has been settled. Besides, a decree of divorce by mutual consent has been passed and the marriage between petitioner No.1 and respondent No.3 stands dissolved by a decree of divorce by mutual consent. Both the parties have decided to part ways amicably. Respondent No.3 has no claim against petitioner No.1 and the custody of child would also remain with petitioner No.1.

In B.S. Joshi and another v. State of Haryana and others (supra) it was observed that in matrimonial disputes the High Court may quash proceedings where the parties have settled their dispute. Section 320 Cr.P.C., it was observed, does not limit the exercise of power under Section 482 Cr.P.C. to quash proceedings. Rather, it was emphasized that it is the

duty of the Court to encourage genuine settlements. The matrimonial dispute between the parties has indeed been settled and the decree of divorce by mutual consent has also been passed. Therefore, the continuation of the criminal prosecution in pursuance of the impugned FIR dated 24.1.2004 (Annexure-P.1) would not serve any purpose. As such the FIR and the consequential proceedings are liable to be quashed.

For the foregoing reasons, the criminal miscellaneous petition is allowed. FIR No.13 dated 24.1.2004 registered at Police Station Samrala, District Ludhiana for the offences under Sections 498-A and 406 IPC and all subsequent and consequential proceedings arising there from shall stand quashed.

August 24, 2007. **(S.S. Saron)**
Judge

hsp